



State of Utah

**Department of
Natural Resources**

MICHAEL R. STYLER
Executive Director

**Division of
Oil, Gas & Mining**

JOHN R. BAZA
Division Director

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

December 21, 2006

CERTIFIED RETURN RECEIPT
7002 0510 0003 8603 3868

Russell Larsen
Lakeview Rock Product, Inc.
900 North Redwood Road,
P.O. Box 540700
Salt Lake City, Utah 84054-0700

Subject: Reassessment for Cessation Order MC-2006-01-04, Lakeview Rock
Products, Inc., Thomas Pit, M0110002, Davis County, Utah

Dear Mr. Larsen:

The proposed civil penalty assessment for the above referenced cessation order was sent to you on July 6, 2006. At that time the abatement had not been completed and some of the facts surrounding the violation were not available. In accordance with rule R647-7-105, the penalty is to be reassessed when it is necessary to consider facts, which were not reasonably available on the date of the issuance of the proposed assessment. Now that the Cessation Order has been terminated (termination notice enclosed) the assessment can be completed. Following is the reassessment of the penalty for the cessation order:

- MC-06-01-04 Violation 1 of 1 \$528

The enclosed worksheet specifically outlines how the violation was assessed. You should note that good faith points have now been awarded. Even though the violation may be terminated, you will still be responsible for taking care of the penalty.

Under R647-7-106, there are two informal appeal options available to you:

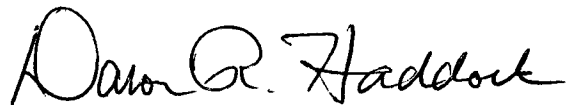
1. If you wish to informally appeal the fact of the Cessation Order, you should file a written request for an Informal Conference within thirty (30) days of receipt of this letter. This conference will be conducted by the Division Director, Associate Director or assigned conference officer. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.

Russell Larsen
S/011/002
December 21, 2006
Page 2 of 6

2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within thirty (30) days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph one, the assessment conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of the cessation order will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the reassessment. Please remit payment to the Division, mail c/o Vicki Bailey.

Sincerely,



Daron R. Haddock
Assessment Officer

Enclosure: Worksheets
cc: Vickie Southwick, Exec. Sec.
Vicki Bailey, Accounting
P:\GROUPS\MINERALS\WP\M011-Davis\M0110002-ThomasPit\non-compliance\REAssessment-CO.doc

**WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS & MINING
Minerals Regulatory Program**

COMPANY / MINE Lakeview Rock Products, Inc./ Thomas Pit PERMIT M0110002

NOV / CO # MC-2006-01-04

VIOLATION 1 of 1

REASSESSMENT DATE December 20, 2006

ASSESSMENT OFFICER Daron R. Haddock

I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)

- A. Are there previous violations, which are not pending or vacated, which fall within three (3) years of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS (1pt for NOV 5pts for CO)
<u>none</u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>

TOTAL HISTORY POINTS 0

II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an EVENT (A) or Administrative (B) violation? Event
(assign points according to A or B)

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS:

*** *An Operator is required to obtain a permit from the Division of Oil Gas and Mining prior to conducting mining operations. The inspection of this site found areas of mining related disturbance, which were not part of a current mining permit. The Operator had submitted an amendment to a nearby permitted operation and assumed that he was okay to operate even though no approval had been given. He had not received approval to mine in the area where he was mining. Disturbance has actually occurred.*

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 8

PROVIDE AN EXPLANATION OF POINTS:

*** *The inspector stated that the operator has disturbed a few acres of land that had not been approved for disturbance. The damage is the loss of vegetation and soil resources from the area disturbed as the result of mining operations. Because much of the site had been previously disturbed (pre-law), the amount of damage is somewhat limited and is probably temporary. While the soil and vegetation have been disturbed, the site could still be reclaimed. Damage is assessed in the lower 1/3 of the range.*

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement?
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS na

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 28

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, the failure to abate any violation due to the same or was economic gain realized by the permittee? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 6

PROVIDE AN EXPLANATION OF POINTS:

*** *The inspector indicated that the violation was the result of the Operator not understanding the DOGM regulations. The Operator had applied for an amendment to his existing operation (Lakeview Pit), which is located nearby the Thomas Pit. The Division had not approved the amendment because there is still some outstanding information that needs to be provided on the Lakeview Pit plan. Until the Lakeview plan is completed, the Division cannot approve the Thomas Pit amendment. The Operator had received an approval from the city of North Salt Lake to conduct the work because they (the city) are interested in beautifying the entrance to the city. Lakeview had contacted Doug Jensen about starting the clean up project and he had indicated that they could commence the clean-up work at the site. Unfortunately, they started doing more than just clean-up and they started excavation and mining operations prematurely. There seemed to be confusion about what had been approved and how much activity was allowed. This indicates indifference to the rules or misunderstanding of the rules. A prudent operator would understand the need to obtain approval prior to conducting mining activities or disturbing an area. The Operator was confused and somewhat negligent in this regard, thus the assignment of points in the lower part of the negligence range.*

IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)

(Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?
IF SO--EASY ABATEMENT

Easy Abatement Situation

- Immediate Compliance -11 to -20*
(Immediately following the issuance of the NOV)
- Rapid Compliance -1 to -10
(Permittee used diligence to abate the violation)
- Normal Compliance 0
(Operator complied within the abatement period required)
(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)

*Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

- Rapid Compliance -11 to -20*
(Permittee used diligence to abate the violation)
- Normal Compliance -1 to -10*
(Operator complied within the abatement period required)
- Extended Compliance 0
(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete)
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? Difficult

ASSIGN GOOD FAITH POINTS -10

PROVIDE AN EXPLANATION OF POINTS:

*** *The abatement required submission of plans, so this is considered to be a difficult abatement. While it may appear that this was a prolonged abatement period, things actually took place fairly rapidly to get this mine permitted and bonded. The Cessation Order was issued on June 9, 2006 and by June 12, 2006 the Operator had submitted a application for a small mine. A bond was submitted on June 14, 2006, which then allowed them to operate as a small mine. On June 28, 2006 an application for a large mine was submitted, which then went through Division review. After responding to the deficiencies and going through the mandatory public comment period, final approval was granted on December 14, 2006. Much of the time to complete this approval was Division review time and the Operator was able to get all of the required information to the Division within the required abatement timeframe. I view this as achieving a difficult abatement within the allotted timeframe and the Operator used diligence to comply, thus the assignment of 10 good faith points..*

V. ASSESSMENT SUMMARY (R647-7-103.3)

NOTICE OF VIOLATION # <u>MC-06-01-04(1)</u>	
I. TOTAL HISTORY POINTS	<u>0</u>
II. TOTAL SERIOUSNESS POINTS	<u>28</u>
III. TOTAL NEGLIGENCE POINTS	<u>6</u>
IV. TOTAL GOOD FAITH POINTS	<u>-10</u>
TOTAL ASSESSED POINTS	<u>24</u>
 TOTAL ASSESSED FINE	 <u>\$ 528</u>